

BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

IN THE MATTER OF:)	
)	
STEVEN LOCNIKAR, D.O.)	FINDINGS OF FACT, CONCLUSIONS
Holder of License No. 2669 for the)	OF LAW, AND ORDER OF SUMMARY
practice of osteopathic medicine in the)	SUSPENSION
State of Arizona.)	
_____)	

The Board held a public meeting by telephone conference call on January 16, 1997, regarding Steven Locnikar, D.O. (hereafter "Respondent"). Dr. Locnikar, his counsel, Thomas M. Connelly, members of Dr. Locnikar's family and a friend were present in the Board's offices for the meeting. Mr. Connelly provided the Board with a letter dated January 15, 1997 from Kevin Johnson, Ph.D. concerning Dr. Johnson's opinion of the results of Dr. Locnikar's specimen collection of January 2, 1997. That letter was read into the record. Following the Board's review of information obtained pursuant to A.R.S. §§ 32-1855 and 32-1855.01, and having considered the information in the matter and being fully advised, the Board enters the following Findings of Fact, Conclusions of Law, and Order of Summary Suspension, pending proceedings for revocation or other action.

FINDINGS OF FACT

1. The Arizona Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") is empowered, pursuant to A.R.S. §§ 32-1800 through - 1871 to regulate the licensing and practice of osteopathic medicine in Arizona.
2. Respondent is a licensee of the Board and holds License No. 2669 for the practice of osteopathic medicine in Arizona.

3. The Board obtained information that Respondent may be medically and/or psychologically unable to safely and skillfully engage in the practice of medicine and may have committed one or more acts of unprofessional conduct as defined in A.R.S. § 32-1854.

4. On April 26, 1996, the Respondent agreed to stop practicing osteopathic medicine until after the Board's May 15, 1996 meeting.

5. On May 1, 1996 the board voted to hold an Informal Interview with Respondent at it's May 15, 1996 meeting. On May 15, 1996, the Board authorized it's Executive Director to execute a Consent Order concerning the Respondent.

6. Pursuant to a Stipulated Consent Order issued on May 20, 1996 Respondent was placed on probation for five years and ordered to comply with the terms and conditions of probation set forth in greater detail in the order. See attached Exhibit A, which is incorporated herein by reference. The probationary order of May 20, 1996 arose out of Respondent's substance abuse and use of cocaine.

7. Pursuant to paragraph (7) of the Board's May 20, 1996 Consent Order, Respondent was ordered to "abstain completely from the consumption of alcoholic beverages; and, not consume illicit drugs or take any controlled substances (i.e., prescription only drugs), unless such medication is prescribed for him by his treating physician." The information available to the Board demonstrates that Respondent violated the Board's probationary order by consuming alcohol, marijuana, and cocaine. Specifically, biological fluid testing conducted on the following dates were positive for the identified substances:

- A. Biological fluid sample collected on January 2, 1997 at approximately 9:28 a.m. confirmed the presence of ethanol alcohol at a level of .07 percent. Laboratory analysis was conducted by Southwest Laboratories, Inc. and certified by Gary D.

Carmack, Ph.D. Respondent admitted to consuming alcohol on New Year's day in a telephone conversation with Ms. Patty Rustenburg, Board Complaint/Compliance Manager on January 8, 1997.

- B. Biological fluid sample collected on October 7, 1996, at approximately 10:20 a.m. tested positive for cocaine without the presence of metabolite. Laboratory analysis conducted by Southwest Laboratories, Inc. and certified by Gary D. Carmack, Ph.D. Biological fluid sample collected from Respondent on September 26, 1996 also tested positive for cocaine and also without cocaine metabolite at the standard cutoff level used for reporting purposes.
- C. Biological fluid sample collected on July 15, 1996, from Respondent was positive for THC (i.e. marijuana) and/or metabolite at a level below the standard cut-off used for reporting purposes.

Violating a Formal Board order, probation or stipulation constitutes a violation of A.R.S. § 32-1854(26).

8. The information available to the Board was that on January 2, 1997 at 9:28 a.m. Respondent's urine alcohol level reflected a quantity of .07 percent. That day Respondent's records indicated that he was scheduled to see approximately twenty patients. Respondent saw and provided treatment to approximately seventeen patients throughout the course of that day. Practicing medicine while under the influence of alcohol constitutes unprofessional conduct as defined at A.R.S. § 32-1854(3).

9. Information before the Board reflected that pursuant to paragraph 9 of the Board's Consent Order dated May 20, 1996, Respondent must, when directed by the Board's designated representative, submit to random biological fluid testing within sixty (60) minutes of notification by appearing at a designated collection facility for testing of biological fluids. On the following dates, Respondent failed to timely comply with instructions to submit to testing.

On November 19, 1996 at approximately 3:00 p.m., the Board's staff medical consultant, Colleen Hunsaker, D.O., called Respondent's office to inform him of the time and date to appear for biological fluid testing (i.e. butyryl cholinesterase blood test). Dr. Hunsaker was unable to communicate directly with Respondent and left a message with Respondent's message service to page Respondent and respond to her call. By 3:30 p.m. Dr. Hunsaker had not received a response to her message to Respondent and therefore called his home telephone which was answered by a voice message machine that would not record a message. At 3:50 p.m. Dr. Hunsaker spoke to one of Respondent's office staff (Maggie) who received Dr. Hunsaker's message to Respondent to report to the St. Luke Hospital's clinical laboratory within twenty-four (24) hours to provide a blood sample for testing; and, Dr. Hunsaker was told that Respondent was playing golf and not available by pager, but would be relayed the message. By the morning of November 21, 1996, Respondent had not yet provided a blood sample for testing; and, Ms. Rustenburg, Board Complaint/Compliance Manager, spoke by telephone to Respondent's employee (Maggie) to determine Respondent's whereabouts and obtain compliance with the prior instructions to provide a blood sample as well as a urine drug screen. Ms. Rustenburg was informed by Respondent's employee (Maggie) that Respondent had traveled to New York for visitation of his daughter and was expected to return to Phoenix on Sunday, November 24, 1996. Respondent subsequently provided the aforementioned blood sample for analysis on November 26, 1996 at approximately 5:00 p.m. Ms. Rustenburg requested that Respondent provide documentation regarding his trip to New York for the time period of November 21-24, 1996. Respondent refused. At the Board's December 7, 1996 Board Meeting, Respondent agreed to provide documentation regarding the New York trip, but as of January 16, 1997 the Board has not received that documentation. On January 6, 1997 the Board received communication from Dr. Locnikar's ex-wife and mother of his daughter stating that Respondent has not seen his daughter since January, 1996.

Violating a formal Board order, probation, or stipulation constitutes unprofessional conduct as defined at A.R.S. § 32-1854(26).

10. In public session on January 16, 1997 the Board voted that Respondent's disregard of his stipulations with the Board and his relapse behavior specifically reflected in his January 2, 1997 positive urine alcohol test provide the Board with adequate evidence to conclude that the public health, safety, or welfare imperatively require this emergency suspension.

CONCLUSIONS OF LAW

1. Pursuant to Arizona Revised Statutes §§ 32-1800 through - 1871, the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

2. The Board has the authority to summarily suspend an osteopathic license pursuant to A.R.S. §§ 32-1855(C) and 41-1064(C) when it finds, based on the information provided pursuant to A.R.S. §31-1855(A) and (B), that the public health, safety, or welfare requires emergency action.

3. The information before the Board at it's January 16, 1997 telephone conference Board Meeting shows that Respondent is continuing to consume prohibited substances in violation of his consent order and presented a urine sample containing .07% alcohol at 9:28 a.m. on January 2, 1997. Consequently, the Board finds that the public health, safety, or welfare imperatively requires emergency action pursuant to A.R.S. §32-1855(C) and § 41-1064(C).

ORDER

NOW, THEREFORE, IT IS ORDERED AS FOLLOWS:

Pursuant to A.R.S. §§32-1855(C) and 41-1064(C), License No. 2669 held by STEVEN LOCNIKAR, D.O. to practice osteopathic medicine is summarily suspended in the State of Arizona effective January 16, 1997, pending further disciplinary proceedings or until further Order of the Board.

ENTERED this 17th day of January, 1997.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Ann Marie Berger
Ann Marie Berger, Executive Director
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Served by personal service or
Certified Mail this 17th day
of January, 1997 to:

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Copy mailed this 17th day
of January, 1997 to:

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(Attorney for Respondent)

A copy sent interagency mail
this __ day of January, 1997, to:

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Phoenix AZ 85007 (w/enclosure)

Arizona Board of Pharmacy
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Drug Enforcement Agency
Attn: Diversion Sec.
3010 N. 2nd St.
Phoenix AZ 85012

Karen R Pulley